

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION**

<p>SUNDESA, LLC, a Utah limited liability company, and RUNWAY BLUE, LLC, a Utah limited liability company,</p> <p style="text-align: center;">Plaintiff,</p> <p>vs.</p> <p>PERFECTSHAKERS.COM, a Canadian limited liability company,</p> <p style="text-align: center;">Defendant.</p>	<p><b>SCHEDULING ORDER AND ORDER VACATING HEARING</b></p>    <p>Case No. 2:11-cv-00165-BCW Judge Clark Waddoups</p>
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Pursuant to Fed.R. Civ P. 16(b), the Magistrate Judge received the Attorneys' Planning Report filed by counsel (docket #30). The following matters are scheduled. The times and deadlines set forth herein may not be modified without the approval of the Court and on a showing of good cause.

IT IS ORDERED that the Initial Pretrial Hearing set for December 7, 2011, at 11:30 AM in Room 477 is VACATED.

**\*\*ALL TIMES 4:30 PM UNLESS INDICATED\*\***

<b>1. PRELIMINARY MATTERS</b>	<b>DATE</b>
Nature of claims and any affirmative defenses:	
a. Was Rule 26(f)(1) Conference held?	Yes 10/17/11 & 11/01/11
b. Has Attorney Planning Meeting Form been submitted?	Yes 11/07/11

c.	Was 26(a)(1) initial disclosure completed?	No	12/05/11
<b>2.</b>	<b>DISCOVERY LIMITATIONS</b>		<b>NUMBER</b>
a.	Maximum Number of Depositions by Plaintiff(s)		10
b.	Maximum Number of Depositions by Defendant(s)		10
c.	Maximum Number of Hours for Each Deposition (unless extended by agreement of parties)		7
d.	Maximum Interrogatories by any Party to any Party		35
e.	Maximum requests for admissions by any Party to any Party		35
f.	Maximum requests for production by any Party to any Party		As needed
g.	Discovery of electronically stored information should be handled as follows:		
	Electronically stored information can be produced in electronic format or printed and produced in paper copies, at the election of the party making the production. If produced in electronic format, a searchable PDF format shall be acceptable. Upon request, the producing party shall produce electronically stored information in native format. With respect to the production of any information either electronically stored or otherwise, the party producing the information, either in electronic format, PDF or in paper copies, shall pay for the preparation and reproduction costs of doing so.		
h.	Claim of privilege or protection as trial preparation material asserted after production shall be handled as follows: <i>Include provisions of agreement to obtain the benefit of Fed. R. Evid. 502(d).</i>		
<b>3.</b>	<b>AMENDMENT OF PLEADINGS/ADDING PARTIES</b>		<b>DATE</b>
a.	Last Day to File Motion to Amend Pleadings		06/18/12
b.	Last Day to File Motion to Add Parties		06/18/12
<b>4.</b>	<b>RULE 26(a)(2) REPORTS FROM EXPERTS</b>		<b>DATE</b>
a.	Plaintiff		04/30/12

b.	Defendant		04/30/12
c.	Counter reports		05/28/12
<b>5.</b>	<b>OTHER DEADLINES</b>		<b>DATE</b>
a.	Discovery to be completed by:		
	Fact discovery		07/30/12
	Expert discovery		07/30/12
b.	(optional) Final date for supplementation of disclosures and discovery under Rule 26 (e)		08/31/12
c.	Deadline for filing dispositive or potentially dispositive motions		09/28/12
<b>6.</b>	<b>SETTLEMENT/ALTERNATIVE DISPUTE RESOLUTION</b>		<b>DATE</b>
a.	Referral to Court-Annexed Mediation:	<u>Yes/No</u>	
b.	Referral to Court-Annexed Arbitration	<u>Yes/No</u>	
c.	Evaluate case for Settlement/ADR on		04/02/12
d.	Settlement probability:	Fair	
<b>7.</b>	<b>TRIAL AND PREPARATION FOR TRIAL</b>	<b>TIME</b>	<b>DATE</b>
a.	Rule 26(a)(3) Pretrial Disclosures		
	Plaintiff		03/15/13
	Defendant		03/29/13
b.	Objections to Rule 26(a)(3) Disclosures (if different than 14 days provided in Rule)		45 days prior to trial date
c.	Special Attorney Conference on or before		04/12/13

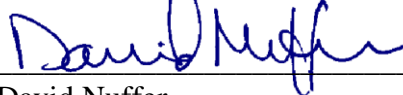
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|-----|------------------------------------|---------------|------------------------|
| d.  | Settlement Conference on or before |               | 04/12/13               |
| e.  | Final Pretrial Conference          | 2:30 p.m.     | 04/29/13               |
| f.  | Trial                              | <u>Length</u> |                        |
| i.  | Bench Trial                        | <u># days</u> | ____:____ .m. 00/00/00 |
| ii. | Jury Trial                         | 5 days        | 8:30 a.m. 05/13/13     |

## 8. OTHER MATTERS

Counsel should contact chambers staff of the judge presiding in the case regarding *Daubert* and *Markman* motions to determine the desired process for filing and hearing of such motions. All such motions, including Motions *in Limine* should be filed well in advance of the Final Pre Trial. Unless otherwise directed by the court, any challenge to the qualifications of an expert or the reliability of expert testimony under *Daubert* must be raised by written motion before the final pre-trial conference.

Dated November 21, 2011.

BY THE COURT:



David Nuffer  
U.S. Magistrate Judge

1. The Magistrate Judge completed Initial Pretrial Scheduling under DUCivR 16-1(b) and DUCivR 72-2(a)(5). The name of the Magistrate Judge who completed this order should NOT appear on the caption of future pleadings, unless the case is separately assigned or referred to that Magistrate Judge.

2. Counsel must still comply with the requirements of Fed. R. Civ. P. 15(a).

3. A party shall disclose the identity of each testifying expert and the subject of each such expert's testimony at least 60 days before the deadline for expert reports from that party. This disclosure shall be made even if the testifying expert is an employee from whom a report is not required.

4. Any demonstrative exhibits or animations must be disclosed and exchanged with the 26(a)(3) disclosures.

5. The Special Attorneys Conference does not involve the Court. Counsel will agree on voir dire questions, jury instructions, a pre-trial order and discuss the presentation of the case. Witnesses will be scheduled to avoid gaps and disruptions. Exhibits will be marked in a way that does not result in duplication of documents. Any special equipment or courtroom arrangement requirements will be included in the pre-trial order.

6. The Settlement Conference does not involve the Court unless a separate order is entered. Counsel must ensure that a person or representative with full settlement authority or otherwise authorized to make decisions regarding settlement is available in person or by telephone during the Settlement Conference.